

any of the entities described in subparagraphs (A) and (B) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

“(9) **PATENT INFRINGEMENT.**—The term ‘patent infringement’ means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

“(10) **PATENT INFRINGEMENT CLAIM.**—The term ‘patent infringement claim’ means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.

“(11) **STATUTORY EXCLUSIVITY.**—The term ‘statutory exclusivity’ means those prohibitions on the approval of drug applications under clauses (ii) through (iv) of section 505(c)(3)(E) (5- and 3-year data exclusivity), section 527 (orphan drug exclusivity), or section 505A (pediatric exclusivity) of the Federal Food, Drug, and Cosmetic Act.”

(b) **EFFECTIVE DATE.**—Section 28 of the Federal Trade Commission Act, as added by this section, shall apply to all agreements described in section 28(a)(1) of that Act entered into after November 15, 2009. Section 28(g) of the Federal Trade Commission Act, as added by this section, shall not apply to agreements entered into before the date of enactment of this title.

#### SEC. 03. NOTICE AND CERTIFICATION OF AGREEMENTS.

(a) **NOTICE OF ALL AGREEMENTS.**—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 355 note) is amended by—

(1) striking “the Commission the” and inserting the following: “the Commission—

“(1) the”;

(2) striking the period and inserting “; and”;

(3) inserting at the end the following:

“(2) any other agreement the parties enter into within 30 days of entering into an agreement covered by subsection (a) or (b).”

(b) **CERTIFICATION OF AGREEMENTS.**—Section 1112 of such Act is amended by adding at the end the following:

“(d) **CERTIFICATION.**—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: ‘I declare that the following is true, correct, and complete to the best of my knowledge: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.’”

#### SEC. 04. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

Section 505(j)(5)(D)(i)(V) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(V)) is amended by inserting “section 28 of the Federal Trade Commission

Act or” after “that the agreement has violated”.

#### SEC. 05. COMMISSION LITIGATION AUTHORITY.

Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (D), by striking “or” after the semicolon;

(2) in subparagraph (E), by inserting “or” after the semicolon; and

(3) inserting after subparagraph (E) the following:

“(F) under section 28;”.

#### SEC. 06. STATUTE OF LIMITATIONS.

The Commission shall commence any enforcement proceeding described in section 28 of the Federal Trade Commission Act, as added by section 3, except for an action described in section 28(g)(2) of the Federal Trade Commission Act, not later than 3 years after the date on which the parties to the agreement file the Notice of Agreement as provided by sections 1112(c)(2) and (d) of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (21 U.S.C. 355 note).

#### SEC. 07. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such title or amendments to any person or circumstance shall not be affected thereby.

### NOTICE OF HEARING

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, June 22, 2010, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on policies to reduce oil consumption through the promotion of accelerated deployment of electric-drive vehicles, as proposed in S. 3495, the Promoting Electric Vehicles Act of 2010.

For further information, please contact Mike Carr or Abigail Campbell.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on June 16, 2010.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON ARMED SERVICES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 16, 2010, at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on June 16, 2010, at 11 a.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 16, 2010, at 9:30 a.m., to hold a hearing entitled “The New START Treaty (Treaty Doc. 111-5): Views from the Pentagon.”

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON VETERANS’ AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on June 16, 2010. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on June 16, 2010, from 2–5 p.m. in Dirksen 562 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs’ Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on June 16, 2010, at 3 p.m. to conduct a hearing entitled, “The Gulf of Mexico Oil Spill: Ensuring a Financially Responsible Recovery.”

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate to conduct a hearing on June 16, 2010, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PRIVILEGES OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Juliana

Manzanarez and Jonquilyn Hill, who are interns in my office, be given floor privileges during the pendency on this tax extenders bill, H.R. 4213.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Anders Landgren, an intern on the Finance Committee staff, be granted the privileges of the floor for the duration of the debate on the American Jobs and Closing Tax Loopholes Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECOGNIZING THE 60TH ANNIVERSARY OF THE OUTBREAK OF THE KOREAN WAR

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S.J. Res. 32, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant editor of the Daily Digest read as follows:

A joint resolution (S.J. Res. 32) recognizing the 60th anniversary of the outbreak of the Korean War and reaffirming the United States-Korea alliance.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BURR. Mr. President, this joint resolution recognizes the 60th anniversary of the outbreak of the Korean war, as well as honoring the strong friendship between the United States and the Republic of Korea.

June 25 is a very important day, not only in Korean history, but also in U.S. history. On that day 60 years ago, Communist troops from the Soviet-occupied north crossed the invisible border at the 38th parallel to invade their free brethren to the south—killing thousands of civilians and forcing streams of refugees to flee their advance.

Under the leadership of President Harry S. Truman, the United States responded to its first military challenge of the Cold War by dispatching U.S. forces to lead 15 other countries of a United Nations force to defend against the spread of communism. President Truman made his commitment to the war very clear:

In the simplest terms, what we are doing in Korea is this: We are trying to prevent a third world war. . . . If history has taught us anything, it is that aggression anywhere in the world is a threat to peace everywhere in the world. When that aggression is supported by the cruel and selfish rulers of a powerful nation who are bent on conquest, it becomes a clear and present danger to the security and independence of every free nation.

During the 3 years of the Korean war, 5.7 million Americans answered the call to duty, and almost 1.8 million of these men and women deployed across the Pacific to serve in some of the most harsh and unforgiving conditions along the rugged peninsula, in the

skies above the Yalu River, on carriers and other surface ships at sea, or from staging and support areas in Japan. By the official cease fire on July 27, 1953, 54,246 American servicemen and servicewomen had sacrificed their lives to defeat Korean and Chinese Communist troops and push them north of what is known as the Demilitarized Zone. Since then, a stalemate has existed on the Korean Peninsula, with the United States supporting a free and prosperous Republic of Korea, while keeping a wary eye on the brutally repressive regime across the border. In the last 60 years, there have been several confrontational episodes and potential flashpoints between the two Koreas, and events of the last few weeks show us that the conflict continues today.

Although we are hopeful that the swell of military action 60 years ago will be the most profound fighting in the Korean war, North Korea has shown a propensity to provoke its sister country in the South. This is clearly evident in the brutal murder of 46 South Korean sailors of the South Korean Navy ship, the Cheowan, on May 20. Compelling evidence points toward North Korean culpability in this latest episode. Such an act of aggression only serves to underscore and reaffirm the importance of the alliance between the United States and the Republic of Korea.

Today, U.S. Forces Korea—the combined American air, ground, and naval forces of roughly 28,500 American servicemembers—still stand ready to assist in the safety and security of South Korea near the Demilitarized Zone, DMZ, and throughout the rest of the peninsula below the 38th Parallel.

This mutual and enduring friendship has been in evidence since September 11, 2001. South Korea has been an able and willing ally in the global war on terror, dispatching the 100th Engineer Group and 924th Medical Group to both Iraq and Afghanistan. Their forces have been integral in providing humanitarian and medical aid to soldiers and civilians alike, as well as working to rebuild infrastructure in Afghanistan and Iraq.

I ask all of my esteemed colleagues to stand with me and pass this joint resolution, to not only commemorate the 60th anniversary of the beginning of the Korean war and properly honor those Americans who served proudly in that conflict, but also to recognize the continued resilience and vibrancy of the alliance between our nations.

Mr. DURBIN. Mr. President, I ask unanimous consent to be added as a cosponsor to this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that the joint resolution be read a third time and passed, the preamble be agreed to, the motions to reconsider be laid upon the table, and any statements relating to the joint resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S.J. Res. 32) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S. J. RES. 32

Whereas, on June 25, 1950, communist North Korea invaded the Republic of Korea with approximately 135,000 troops, thereby initiating the Korean War;

Whereas, on June 27, 1950, President Harry Truman ordered the United States Armed Forces to help the Republic of Korea defend itself against the North Korean invasion;

Whereas the hostilities ended in a ceasefire marked by the signing of the armistice at Panmunjom on July 27, 1953, and the peninsula still technically remains in a state of war;

Whereas, during the Korean War, approximately 1,789,000 members of the United States Armed Forces served in theater along with the forces of the Republic of Korea and 20 other members of the United Nations to defend freedom and democracy;

Whereas casualties of the United States during the Korean War included 54,246 dead (of whom 33,739 were battle deaths), more than 103,284 wounded, and approximately 8,055 listed as missing in action or prisoners of war;

Whereas the Korean War Veterans Recognition Act (Public Law 111-41) was enacted on July 27, 2009, so that the honorable service and noble sacrifice by members of the United States Armed Forces in the Korean War will never be forgotten;

Whereas President Barack Obama issued a proclamation to designate July 27, 2009, as the National Korean War Veterans Armistice Day and called upon Americans to display flags at half-staff in memory of the Korean War veterans;

Whereas since 1975, the Republic of Korea has invited thousands of American Korean War veterans, including members of the Korean War Veterans Association, to revisit Korea in appreciation for their sacrifices;

Whereas in the 60 years since the outbreak of the Korean War, the Republic of Korea has emerged from a war-torn economy into one of the major economies in the world and one of the largest trading partners of the United States;

Whereas the Republic of Korea is among the closest allies of the United States, having contributed troops in support of United States operations during the Vietnam war, Gulf war, and operations in Iraq and Afghanistan, while also supporting numerous United Nations peacekeeping missions throughout the world;

Whereas since the end of the Korean War era, more than 28,500 members of the United States Armed Forces have served annually in the United States Forces Korea to defend the Republic of Korea against external aggression, and to promote regional peace;

Whereas North Korea's sinking of the South Korean naval ship, Cheonan, on March 26, 2010, which resulted in the killing of 46 sailors, necessitates a reaffirmation of the United States-Korea alliance in safeguarding the stability of the Korean Peninsula;

Whereas from the ashes of war and the sharing of spilled blood on the battlefield, the United States and the Republic of Korea have continuously stood shoulder-to-shoulder to promote and defend international peace and security, economic prosperity, human rights, and the rule of law both on the Korean Peninsula and beyond; and